

115TH CONGRESS
2D SESSION

S. 3567

To prohibit the use of funds for the operation or construction of internment camps, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10, 2018

Mr. MERKLEY (for himself and Mr. WYDEN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit the use of funds for the operation or construction
of internment camps, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Internment Camps
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Federal Government has intentionally
9 separated and detained families seeking asylum in
10 the United States purportedly to deter other foreign

1 nationals from coming to the United States in the
2 future. Such method of deterrence is ineffective, con-
3 trary to human rights norms, and likely violates
4 United States and international law.

5 (2) On September 7, 2018, the Secretary of
6 Homeland Security issued a proposed rule entitled
7 “Apprehension, Processing, Care, and Custody of
8 Alien Minors and Unaccompanied Alien Children”
9 (83 Fed. Reg. 45486 (September 7, 2018)), that at-
10 tempts to circumvent a 1997 court agreement com-
11 monly known as the “Flores Settlement Agreement”
12 to undermine current legal protections for children
13 and families and increase family detention.

14 (3) Detaining families can have long-term con-
15 sequences on children, such as—

16 (A) difficulty regulating emotions, achiev-
17 ing developmental milestones, and forming
18 healthy relationships;

19 (B) increased rates of anxiety, depression,
20 and post-traumatic stress disorder; and

21 (C) heightened risks of suicide and self-
22 harm.

23 (4) When family units are placed in family de-
24 tention facilities—

1 (A) family members experience feelings of
2 isolation and increased stress;

3 (B) the ability of the parents to care for
4 their children is compromised by the constraints
5 of detention; and

6 (C) the detention setting creates barriers
7 to—

8 (i) accessing counsel and legal serv-
9 ices; and

10 (ii) successfully obtaining relief from
11 removal.

12 (5) Nondetention-based practices, such as fam-
13 ily case management and community-based pro-
14 grams, are effective and humane alternatives to fam-
15 ily detention.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) APPROPRIATE COMMITTEES OF CON-
19 GRESS.—The term “appropriate committees of Con-
20 gress” means—

21 (A) the Committee on the Judiciary and
22 the Committee on Appropriations of the Senate;
23 and

1 (B) the Committee on the Judiciary and
2 the Committee on Appropriations of the House
3 of Representatives.

4 (2) FAMILY RESIDENTIAL CENTER.—The term
5 “family residential center” means a facility dedi-
6 cated to detaining alien families.

7 (3) FUND.—The term “Fund” means the
8 Emergency Fund for Asylum Seekers established by
9 section 5(a).

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of Homeland Security.

12 **SEC. 4. PROHIBITION ON USE OF FUNDS FOR INTERNMENT**
13 **CAMPS.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, none of the amounts made available after the
16 date of the enactment of this Act for any fiscal year may
17 be obligated or expended to operate or construct a family
18 residential center, whether directly operated by U.S. Im-
19 migration and Customs Enforcement or by another gov-
20 ernmental or nongovernmental contractor.

21 (b) PREVIOUSLY AUTHORIZED EXPENDITURES.—

22 (1) IN GENERAL.—Beginning 1 year after the
23 date of the enactment of this Act, none of the
24 amounts made available before such date of enact-
25 ment for the purpose of operating or constructing a

1 family residential center may be used for such pur-
2 pose.

3 (2) PROHIBITION ON TRANSFER.—None of the
4 amounts made available before the date of the enact-
5 ment of this Act may be reprogrammed or trans-
6 ferred for the purpose of operating or constructing
7 a family residential center.

8 (c) ALTERNATIVES TO DETENTION.—

9 (1) TRANSFER OF FUNDS.—Amounts obligated
10 to operate a family residential center as of the date
11 of the enactment of this Act shall be transferred to
12 the Alternatives to Detention Account for the imple-
13 mentation of the Family Case Management Program
14 and the development of additional community-based
15 nondetention programs for alien families.

16 (2) NONPROFIT ENTITY CONTRACTING PART-
17 NER.—The Secretary shall contract with a qualified
18 nonprofit entity for the operation of the Family Case
19 Management Program and other community-based
20 nondetention programs for alien families.

21 (3) LEGAL ORIENTATION.—To facilitate partici-
22 pant compliance with legal requirements, a non-
23 detention program under this subsection shall in-
24 clude a legal orientation for each participant in the
25 program.

1 (4) CASE MANAGEMENT TRAINING.—

2 (A) IN GENERAL.—The Secretary shall
3 provide case management training for all per-
4 sonnel of a nondetention program under this
5 subsection, including personnel of—

6 (i) the Department of Homeland Se-
7 curity; and

8 (ii) the nonprofit entity contracted
9 under paragraph (2).

10 (B) BEST PRACTICES.—The training under
11 subparagraph (A) shall be based on social wel-
12 fare best practices.

13 (d) RULE OF CONSTRUCTION.—Nothing in this Act
14 may be construed to endorse the separation of alien fami-
15 lies who enter the United States at or between ports of
16 entry.

17 **SEC. 5. EMERGENCY FUND FOR ASYLUM SEEKERS.**

18 (a) ESTABLISHMENT OF EMERGENCY FUND.—There
19 is established in the Treasury of the United States a fund
20 to be known as the “Emergency Fund for Asylum Seek-
21 ers”.

22 (b) DETERMINATION.—The Secretary may make a
23 determination with respect to the number of alien families
24 that have entered the United States for the purpose of
25 seeking asylum during a fiscal year.

1 (c) AVAILABILITY AND USE.—

2 (1) 100 PERCENT INCREASE.—If the number of
3 alien families determined by the Secretary under
4 subsection (b) to have entered the United States for
5 the purpose of seeking asylum during a fiscal year
6 exceeds 100 percent of the number of alien families
7 that entered the United States for such purpose dur-
8 ing the preceding fiscal year, as of the end of the
9 comparable month of the preceding fiscal year,
10 \$80,000,000 shall be made available from the Fund
11 for the purpose of increasing the capacity of the De-
12 partment of Homeland Security to process, trans-
13 port, parole, and release such alien families, of which
14 not less than \$20,000,000 shall be made available
15 for grants to 1 or more nonprofit entities that oper-
16 ate respite centers to assist such alien families with
17 services and compliance with legal requirements.

18 (2) 200 PERCENT INCREASE.—If the number of
19 alien families determined by the Secretary under
20 subsection (b) to have entered the United States for
21 the purpose of seeking asylum exceeds 200 percent
22 of the number of alien families that entered the
23 United States for such purpose, as of the end of the
24 comparable month of the preceding fiscal year, an
25 additional amount of \$20,000,000 shall be made

1 available from the Fund for the purpose of inter-
2 viewing, processing, transporting, paroling, and re-
3 leasing alien families, of which not less than
4 \$5,000,000 shall be made available for grants to 1
5 or more nonprofit entities that operate respite cen-
6 ters to assist such alien families with services and
7 compliance with legal requirements.

8 (d) NOTIFICATION.—Not later than 14 days after the
9 date on which an amount under subsection (c) is made
10 available, the Secretary shall notify the appropriate com-
11 mittees of Congress of such availability.

12 (e) LIMITATIONS.—Notwithstanding any other provi-
13 sion of law, amounts in the Fund shall not be—

14 (1) reprogrammed or transferred for the pur-
15 pose of operating or constructing a family residential
16 center; or

17 (2) made available for the purpose of detaining
18 or separating alien families.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to the Fund \$100,000,000
21 for each of fiscal years 2019 through 2024.

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